

Office of Personnel Management

§ 930.205

(i) *Conformity.* Actions under this section must be consistent with § 930.201(f).

[72 FR 12954, Mar. 20, 2007, as amended at 73 FR 41235, July 18, 2008]

§ 930.205 Administrative law judge pay system.

(a) OPM assigns each administrative law judge position to one of the three levels of basic pay, AL-3, AL-2 or AL-1 of the administrative law judge pay system established under 5 U.S.C. 5372 in accordance with this section. Pay level AL-3 has six rates of basic pay, A, B, C, D, E, and F.

(1) The rate of basic pay for AL-3, rate A, may not be less than 65 percent of the rate of basic pay for level IV of the Executive Schedule. The rate of basic pay for AL-1 may not exceed the rate for level IV of the Executive Schedule.

(2) The President determines the appropriate adjustment for each level in the administrative law judge pay system, subject to paragraph (a)(1) of this section. Such adjustments take effect on the 1st day of the first pay period beginning on or after the first day of the month in which adjustments in the General Schedule rates of basic pay under 5 U.S.C. 5303 take effect.

(3) An agency must use the following procedures to convert an administrative law judge's annual rate of basic pay to an hourly, daily, weekly, or bi-weekly rate:

(i) To derive an hourly rate, divide the annual rate of pay by 2,087 and round to the nearest cent, counting one-half cent and over as the next higher cent.

(ii) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required by the administrative law judge's basic daily tour of duty.

(iii) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, respectively.

(b) Pay level AL-3 is the basic pay level for administrative law judge positions filled through a competitive examination.

(c) Subject to OPM approval, agencies may establish administrative law judge positions in pay levels AL-2 and AL-1. Administrative law judge posi-

tions are placed at these levels when they involve significant administrative and managerial responsibilities.

(d) Administrative law judges must serve at least 1 year in each AL pay level, or in an equivalent or higher level in positions in the Federal service, before advancing to the next higher level and may advance only one level at a time.

(e) Except as provided in paragraph (f) of this section, upon appointment to an administrative law judge position and placement in level AL-3, an administrative law judge is paid at the minimum rate A of AL-3. He or she is automatically advanced successively to rates B, C, and D of that level upon completion of 52 weeks of service in the next lower rate, and to rates E and F of that level upon completion of 104 weeks of service in the next lower rate. Time in a non-pay status is generally creditable service when computing the 52- or 104-week period as long as it does not exceed 2 weeks per year for each 52 weeks of service. However, absence due to unformed service or compensable injury is fully creditable upon reemployment as provided in part 353 of this chapter.

(f) Upon appointment to a position at AL-3, an administrative law judge may be paid at the minimum rate A, unless the administrative law judge is eligible for the higher rate B, C, D, E, or F because of prior service or superior qualifications, as provided in paragraphs (f)(1) and (f)(2) of this section.

(1) An agency may offer an administrative law judge applicant with prior Federal service a higher than minimum rate up to the lowest rate of basic pay that equals or exceeds the applicant's highest previous Federal rate of basic pay, not to exceed the maximum rate F.

(2) With prior OPM approval, an agency may pay the rate of pay that is next above the applicant's existing pay or earnings up to the maximum rate F. The agency may offer a higher than minimum rate to:

(i) An administrative law judge applicant with superior qualifications (as defined in § 930.202) who is within reach for appointment from an administrative law judge certificate of eligibles; or

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(ii) A former administrative law judge with superior qualifications who is eligible for reinstatement.

(g) With prior OPM approval, an agency, on a one-time basis, may advance an administrative law judge in an AL-3 position with added administrative and managerial duties and responsibilities one rate above the administrative law judge's current AL-3 pay rate, up to the maximum rate F.

(h) Upon appointment to an administrative law judge position placed at AL-2 or AL-1, an administrative law judge is paid at the established rate for the level.

(i) An employing agency may reduce the level or rate of basic pay of an administrative law judge under § 930.211.

(j) With prior OPM approval, an employing agency may reduce the level of basic pay of an administrative law judge if the administrative law judge submits to the employing agency a written request for a voluntary reduction due to personal reasons.

§ 930.206 Performance rating and awards.

(a) An agency may not rate the job performance of an administrative law judge.

(b) An agency may not grant any monetary or honorary award or incentive under 5 U.S.C. 4502, 4503, or 4504, or under any other authority, to an administrative law judge.

§ 930.207 Details and assignments to other duties within the same agency.

(a) An agency may detail an administrative law judge from one administrative law judge position to another administrative law judge position within the same agency in accordance with 5 U.S.C. 3341.

(b) An agency may not detail an employee who is not an administrative law judge to an administrative law judge position.

(c) An agency may assign an administrative law judge to perform non-administrative law judge duties only when:

(1) The other duties are consistent with administrative law judge duties and responsibilities;

(2) The assignment is to last no longer than 120 days; and

(3) The administrative law judge has not had a total of more than 120 days of such assignments or details within the preceding 12 months.

(d) OPM may authorize a waiver of paragraphs (c)(2) and (c)(3) of this section if an agency shows that it is in the public interest to do so. In determining whether a waiver is justified, OPM may consider, but is not restricted to considering, such factors as unusual case load or special expertise of the detailee.

§ 930.208 Administrative Law Judge Loan Program—detail to other agencies.

(a) In accordance with 5 U.S.C. 3344, OPM administers an Administrative Law Judge Loan Program that coordinates the loan/detail of an administrative law judge from one agency to another. An agency may request from OPM the services of an administrative law judge if the agency is occasionally or temporarily insufficiently staffed with administrative law judges, or an agency may loan the services of its administrative law judges to other agencies if there is insufficient work to fully occupy the administrative law judges' work schedule.

(b) An agency's request to OPM for the services of an administrative law judge must:

(1) Identify and briefly describe the nature of the cases(s) to be heard;

(2) Specify the legal authority for which the use of an administrative law judge is required; and

(3) Demonstrate, as appropriate, that the agency has no administrative law judge available to hear the case(s).

(c) The services of an administrative law judge under this program are made from the starting date of the detail until the end of the current fiscal year, but may be extended into the next fiscal year with OPM's approval. Decisions for an extension are made by OPM on a case-by-case basis.

(d) The agency requesting the services of an administrative law judge under this program is responsible for reimbursing the agency that employs the administrative law judge for the cost of the service.